

### **REMARKS**

The indication of allowable subject matter in claims 6, 7, 8, 9, and 28 is sincerely appreciated. Claim 8, however, was rejected under 35 U.S.C. § 112, second paragraph, as being grammatically unclear. Claims 6, 7, 9, and 28 have each been rewritten to appear in independent form, and claim 8 has been amended to overcome section 112 rejection. All of these claims are now believed to be in condition for allowance.

Claims 29-31 and 33-37, which were withdrawn from consideration, have been amended to depend from claim 1.

The specification was objected to based on an informality. The language that was objected to in paragraph [0069] has been appropriately amended. Paragraph [0076] has also been amended to correct a typographical error.

Figure 15 has been amended to include numerals 196 and 198, which are mentioned in the specification in paragraph [0076]. Based on the remaining disclosure of similar features in the rest of the specification, one of ordinary skill in the art would understand what features are referred to by each of these numerals. A formal drawing sheet with this figure is submitted herewith to replace the previous sheet in the file of the application.

Claims 1-3, 5, 23-27, and 32 were rejected under 35 U.S.C. § 102(b) as anticipated by Oliva. Claims 1 and 23 are directed to a tool holder for mounting to a user's clothing article. The tool holder has a first support member of an injection mold and material and a second support member connected to the first support member at a connection portion. The first and second support members have ends that are opposite from the connection portions, and the ends have a configuration for receiving the article between the first ends to hook the first and second support members around the article such that the support members are disposed on apposite sides of the article. Also, a tool holding member is mounted to one of the support members and is configured to receive and hold a portion of a hand held tool.

Oliva, on the other hand, employs a frame that completely surrounds a belt on which it is worn. Nipples 49 lock into apertures 43 to keep the frame assembled. This is contrary to the tool holder of claims 1 and 23, which provide the ends of the first and second support members such that the article of clothing can be received through between these ends so that the first and second support members can be hooked around the article.

The Oliva structure is far more difficult to mount to or remove from the belt. As stated in Oliva, a significant concern is better prevention of undesirable removal from the belt. Additionally for this reason, there is no motivation or suggestion to combine with an open clip structure that would mount to a belt. Consequently claims 1 and 23, are patentably distinct from Oliva.

Claims 12-17 were rejected under 35 U.S.C. § 102(b) as anticipated by Liu '165 ("Liu"). Claim 12 is directed to a tool holder in which the tool holding member and second support member have an operative position, to hold a hand held tool, and a retracted position, to decrease the bulk of the tool holder. Claim 13 further specifies that in the retracted position the holding member is substantially prevented from holding a tool.

Liu, however, teaches a personal toolbox that is intended to carry many very small items, such as drill bits, which are not considered hand held tools, and also to carry a hand tool 70. The hand tool, however, is not positioned in any tool holding member that can be retracted. There is no suggestion to hold the handheld tool in any of the pivotable carriages. With regard to claim 13, all the carriages are spaced from each other so that they can still hold the drill bits regardless of whether they are hinged open or closed.

Furthermore, with respect to claim 43, the separate construction of the first and second support members allows increased modularity and variability and how the support members are coupled, as well as allowing for the provision of different types of tool holders to be attached selectively to one of the support members. This is also a surprising advantage in view of Liu. There is thus no teaching or suggestion of the inventions in claims 12, 13 and 43 in view of Liu, and these claims are thus not anticipated nor obvious thereover.

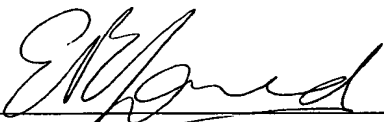
Claims 16 defines as a tool holding member is configured to hold a portion of a hand held tool has a diameter of at least about a 1/2 inch. Even without considering that the bits held by the Liu toolbox are not handheld tools, they certainly would not have a diameter of at least 1/2 inch. There is no suggestion or motivation to increase the size of the Liu chambers 53 as to the size defined in claim 16, since the bits are intended to fit with driver 70, which is of the type well known to require a size much closer to a 1/4 inch, and nowhere near a 1/2 inch diameter. Claim 16 is thus also patentably distinct over Liu.

New claims 38-42 are also patentably distinct from the references on their own merits.

In conclusion, the entire application is believed to be in condition for allowance. Should any issues remain, a personal or telephone interview is respectfully requested to discuss such issues to expedite the allowance of the application.

Respectfully submitted,

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Date

  
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**202-371-5771**

FIG. 14

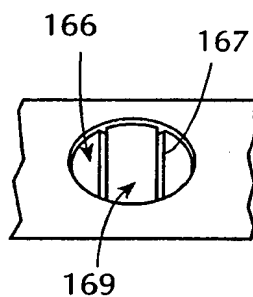
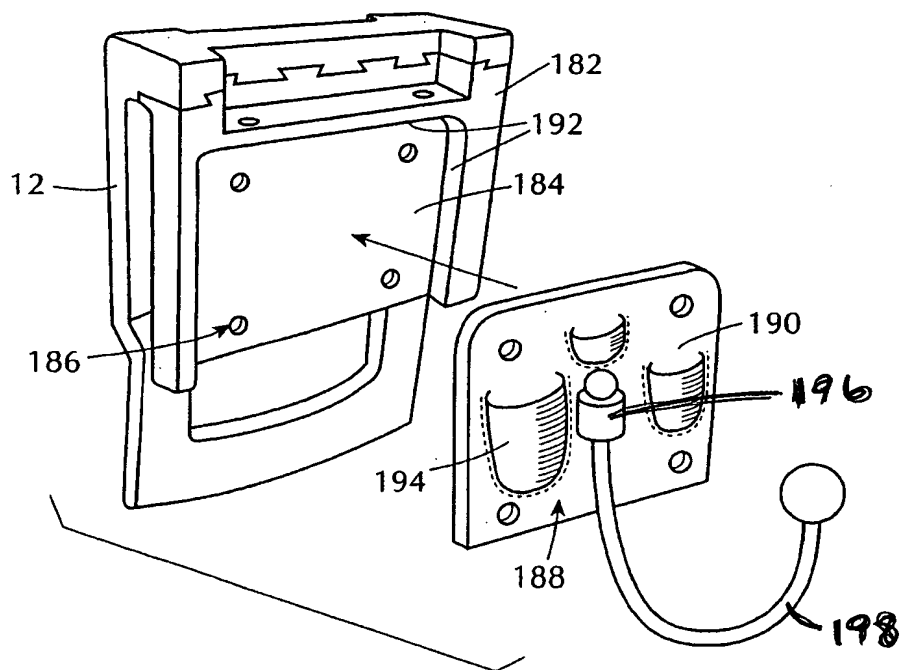
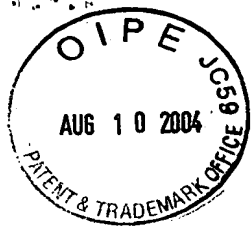


FIG. 15





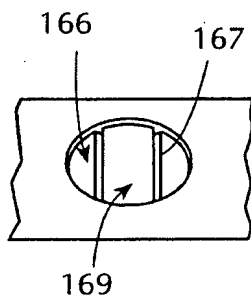
# BELT MOUNTED TOOL HOLDER

Michael Musarella et al.

Attorney Docket No.: 87185-3300

Customer No.: 28765

**FIG. 14**



**FIG. 15**

